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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/855,385	05/15/2001	Jheroen P. Dorenbosch	PF02177NA	8937

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MOTOROLA INC
5401 NORTH BEACH STREET
MAILSTOP E230
FORT WORTH, TX 76137

EXAMINER
MEHRPOUR, NAGHMEH

ART UNIT	PAPER NUMBER
2686	

DATE MAILED: 08/05/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

-- *The MAILING DATE of this communication appears on the cover sheet with the correspondence address* --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE _3_ MONTH(S) FROM
THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed
after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any
earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☐ Responsive to communication(s) filed on _03 February 2005_.

2a)☐ This action is **FINAL**.   2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is
closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) _1-12 and 14-20_ is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) _1-12 and 14-20_ is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All   b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage
application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
    Paper No(s)/Mail Date _____.

4) ☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____ .

5) ☐ Notice of Informal Patent Application (PTO-152)

6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC з 103

1.   The following is a quotation of 35 U.S.C. 103(a) which forms the

basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as
> set forth in section 102 of this title, if the differences between the subject matter sought to be
> patented and the prior art are such that the subject matter as a whole would have been obvious at
> the time the invention was made to a person having ordinary skill in the art to which said subject
> matter pertains. Patentability shall not be negatived by the manner in which the invention was
> made.

2.   **Claims 1-5, 7,** are rejected under 35 U.S.C. 103(a) as being

unpatentable over Aravamudan et al. (US Patent Number 6,301,609 B1) in

view of Sibecas et al. (US Patent Number ·5,940,756).

Regarding **claims 1-2,** Aravamudan teaches a method of emerging Instant

Messaging (col 2 lines 60-63), comprising:

causing a mobile subscriber to register with an instant message

system prior to participating in an instant message session (col 5

lines 5-9),

indicating availability of the mobile subscriber to buddies of

the mobile subscriber (col 7 lines 1-8);

receiving an instant message intended for the mobile subscriber

from one of the buddies (col 5 lines 25-31); and

Aravamudan fails to teach that the method of emerging **deleting** the

instant message intended for the mobile subscriber from the one of the

buddies ·if the mobile subscriber does not receive the instant message

after the instant message is resent a predetermined number of times.

However Sibecas teaches a method for delivering of an instant message

to a subscriber over multiple communication channels and further

teaches **deleting** the instant message intended for the mobile subscriber

(col 7 lines 12-28). Therefore, it would have been obvious to one of

ordinary skill in the art at the time of the invention to combine the

above teaching of Sibecas with Aravamudan, in order to provide a

communication system that rapidly escalating in popularity is based

instant messaging which offers more instantaneous gratification with

respect to interactive communications between two or more users.

Regarding **claim 3,** Aravamudan teaches a mobile subscriber instant

message system, comprising;

an instant proxy for receiving registration information from a

mobile subscriber and for subsequently indicating to registered system

subscribers participating in an instant message session that the mobile

subscriber is available for receiving instant messages (col 2 lines 31-

38);

Aravamudan allows for a high degree of control to be retained by the

user, through the user of instant Messaging, to direct delivery of data

and communications (col 9 lines 34-45).For example upon notification of

a pending event of received data or communications by the communication

service platform, the user may selects to reject communication or to

have data forwarded to Messaging system or elect to conference parties

(col 11 lines 35-45). Aravamudan does not teach the instant Messaging

proxy resending an instant message intended for the mobile subscriber

if the subscriber received no response. However Sibecas teaches a

method for delivering of an instant message to a subscriber over

multiple communication channels and further teaches **deleting** the

instant message intended for the mobile subscriber (col 7 lines 12-28).

Therefore, it would have been obvious to one of ordinary skill in the

art at the time of the invention to combine the above teaching of

Sibecas with Aravamudan, in order to provide a communication system

that rapidly escalating in popularity is based instant messaging which

offers more instantaneous gratification with respect to interactive

communications between two or more users.

Regarding **claims 4-5,** Aravamudan teaches a mobile subscriber instant

message system wherein the instant message proxy is located an instant

message server (See figure 1, numerals 120, 130); and the instant

message proxy is located in proximity a mobile system gateway (See

figure 1, numerals 130, 126).

Regarding **claim 7,** Aravamudan teaches a mobile subscriber instant

message system further comprising a log in server with which the mobile

subscriber must register prior to participating in an instant message

session, the log in server for indicating to the registered system

subscribers participating in the instant message session that the

mobile subscriber is available for receiving instant messages (col 7

lines 33-37, col 8 lines 56-63).

3.   **Claim 6,** is rejected under 35 U.S.C. 103(a) as being unpatentable

over Aravamudan et al. (US Patent Number 6,301,609 B1) in view of

Sibecas et al. (US Patent Number 5,940,756), in further view of Drottar

et al. (US Patent Number 6,333,929 B1).

Regarding **claim 6,** Aravamudan teaches a mobile subscriber instant

message system wherein the instant message proxy (col 2 lines 32-38,

col 7 lines 41-49). The combination of Aravamudan modified by Sibecas

fails to teach that Proxy includes at least one of a timer and a

counter programmed to limit the instant message from being sent to the

mobile subscriber for at least one of only the predetermined number of

times and within a predetermined time period. However Drottar teaches a

timer and a counter programmed to limit the message from being sent to

remote device for the predetermined number of times and within a

predetermined time period (col 9 lines 40-50). Therefore, it would have

been obvious to one of ordinary skill in the art at the time of the

invention to combine Drottar method with Aravamudan modified by

Sibecas, in order to enhance the system performance by providing more

accuracy.

4.   **Claims 8-20,** are rejected under 35 U.S.C. 103(a) as being

unpatentable over Aravamudan et al. (US Patent Number 6,301,609 B1) in

view of Mawhinney (US Patent Number 6,091,710).

Regarding **claims 8-9, 17, 19-20,** Aravamudan teaches a method of a

service providers client access to one or more plurality of client

premises equipments (CPE) 140, the CPE can be a wireless phone, and

service provider can be PSTN. Communications and data can be exchange

between the CPE and PSTN via switch module 124 or routing module 122

(see figure 1). An Instant Messaging system is utilized to provide new

and useful features and services for clients (col 4 lines 54-64). A

communication service platform (CSP) is registered with the IM server

as a □buddy□ to the subscriber client. The location of subscribers CPE

is located by the CPS 160, the CPS initiates communications to the

subscribing client via instant messages, and the CPS solicits a

response from the subscribers CPE (col 5 line 15-31). The method

comprising: notifying the mobile subscriber when instant message

parameters reach a predetermined limit (col 10 lines 23-31). When the

subscribers are off line, all others (buddies) who have identified the

user as a buddy are notified that the user is not online and is not

available (col 10 lines 11-15). Aravamudan fails to teach that queuing

instant messages intended for the mobile subscriber while the mobile

subscriber is not registered with the instant message system, and

facilitating connection of the mobile subscriber to the instant message

system to enable the mobile subscriber to retrieve the queued instant

messages. However Mawhinney teaches a method of reducing data queuing

instant messages intended for data packets that are transmitted in

accordance with Internet protocol. TCP is utilized at the transport

layer to provide flow control utilizing message acknowledgments (col 8

lines 19-20). Three nodes are illustrated in Figure 4, an upstream node

160 (Mobile unit), and intermediate node, which also provide queuing

function, or a down stream node 162, and a destination node end-point

164 (Instant Messaging) (col 9 lines 30-35). The intermediate node 162

(queuing function) is capable of identifying acknowledgments from the

end point 164 (Instant Messaging) by the information contained in the

TCP header. In figure 5, shows five messages have been transmitted by

the upstream node (Mobile Unit) without receiving acknowledgments from

queuing. The upstream 160 (Mobile unit) waits to receive

acknowledgments, thereafter transmits messages on a one-to-one basis.

Once limit of queuing is reached maximum, then Mobile would not

transmit further message until another message (acknowledgments) is

received. Another word the intermediate node (Mobile Unit) starts

transmitting messages to IM service when the queuing is reached to

Maximum number. For example upon max transmission of seven (n=5),

having received only four acknowledgments, the upstream nodes (Mobile

units) waits receipt of the fifth acknowledgment (col 10 lines 32-

65).Then when the maximized Queuing is reached, Mobile starts

establishing connection between mobile subscriber and instant message

service. Therefore, it would have been obvious to one of ordinary skill

in the art at the time of the invention to combine Mawhinney method

with Aravamudan, in order to establish connection between Mobile unit

and Instant Messaging service while avoiding excess queuing message for

IM.

Regarding **claims 10-12, 14-15,** Aravamudan does not specifically mention

that notifying the mobile subscriber when queued instant message

parameters reach a predetermined limit comprises notifying the mobile

subscriber when a predetermined number of buddies send messages

intended for the mobile subscriber within a predetermined amount of

time. However Mawhinney teaches the notifying the mobile subscriber

when queued instant message parameters reach a predetermined limit (col

11 lines 1-9 and abstract) comprises notifying the mobile subscriber

when a predetermined number of buddies send messages intended for the

mobile subscriber within a predetermined amount of time (col 10 lines

42-65). Mawhinney teaches that once the system threshold has reached,

for example the system threshold is five, five messages have been

transmitted by upstream node, without receiving acknowledgments the

upstream node waits to receive acknowledgment, (waiting times is the

predetermined times). The five messages are queued for a certain amount

of time (waiting period) till an acknowledgment received, and thereafter transmits messages. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to use Mawhinney teaching to Aravamudan, in order to improve the performance by better bandwidth utilization.

Regarding **claim 16,** Aravamudan fails to teach a method wherein the predetermined limit in the notifying the mobile when queued instant message parameters reach a predetermined limit is based at least in part on mobile subscriber-based instructions. However Mawhinney teaches the notifying the mobile subscriber when queued instant message parameters reach a predetermined limit (col 11 lines 1-10) comprises notifying the mobile subscriber when a predetermined number of buddies send messages intended for the mobile subscriber within a predetermined amount of time (col 10 lines 42-65). Mawhinney teaches that once the system threshold has reached, for example the system threshold is five, five messages have been transmitted by upstream node, without receiving acknowledgments the upstream node waits to receive acknowledgment, (waiting times is the predetermined times). The five messages are queued for a certain amount of time (waiting period) till an acknowledgment received, and thereafter transmits messages. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to use Mawhinney teaching to Aravamudan, in order to improve the performance by better bandwidth utilization. (col 7 lines 35-44, col 9 lines 1-5).

Regarding **claim 18,** Aravamudan fails to teach a method further comprising downloading the queued instant messages intended for the

mobile subscriber when one of a high priority instant message is

received and the mobile subscriber sends an outgoing message. However

Mawhinney teaches a method comprising: downloading the queued instant

messages intended for the mobile subscriber when one of a high priority

instant message is received and the mobile subscriber sends an outgoing

message (col 2 lines 25-36, col 10 lines 42-65). Therefore, it would

have been obvious to one of ordinary skill in the art at the time of

the invention to use Mawhinney teaching to Aravamudan, in order to

achieve better bandwidth utilization, and provide better feasibility

for the system.

Response to Arguments

5.   Applicant's arguments with respect to claims 1-7, have been

considered but are moot in view of the new ground(s) of rejection.

Response to Arguments

6.   Applicant's arguments filed on 3/2/05 have been fully considered but they are not

persuasive.

In response to applicant's argument that the references fail to show certain

features of applicant's invention, it is noted that the features upon which applicant relies

(i.e., a buddy that sends multiple message without regard for whether an answer is

received) are not recited in the rejected claims 8 and 20. Although the claims are

interpreted in light of the specification, limitations from the specification are not read into

the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

. **Conclusion**

7.   **Any responses to this action should be mailed to:**

Any inquiry concerning this communication or earlier communications from the

examiner should be directed to Naghmeh Mehrpour whose telephone number is 571-272-

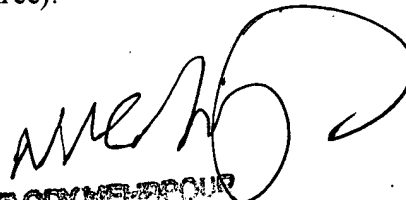7913. The examiner can normally be reached on 8:00- 6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, Marsha Banks-Harold be reached (571) 272-7905.

The fax phone number for the organization where this application or proceeding

is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the

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have questions on access to the Private PAIR system, contact the Electronic Business

Center (EBC) at 866-217-9197 (toll-free).

NM

July 26, 2005